

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

CRAIG CUNNINGHAM

Plaintiffs,

V.

CAPITAL ADVANCE SOLUTIONS, LLC,
GEOFFREY HORN, CHARLES BETTA,
DANIEL LOGAN, EBF PARTNERS, LLC,
WEBBANK CORPORATION,
RETAIL CAPITAL, LLC dba CREDIBLY

Defendants.

[illegible]

). C.A. No.: 3:17-cv-13050-FLW-DEA

**WEBBANK CORPORATION AND RETAIL CORPORATION LLC'S
ANSWER TO PLAINTIFF'S COMPLAINT**

Defendants, WebBank Corporation (“WebBank”) and Retail Capital, LLC d/b/a Credibly (“Retail Capital”) (collectively, “Defendants”), by and through their attorneys, Maurice Wutscher, LLP, hereby answer Plaintiff’s Complaint as follows:

1. Defendants are without sufficient knowledge to either admit or deny the allegations of this paragraph and therefore they are denied.
2. Defendants are without sufficient knowledge to either admit or deny the allegations of this paragraph and therefore they are denied.
3. Defendants are without sufficient knowledge to either admit or deny the allegations of this paragraph and therefore they are denied.
4. Defendants are without sufficient knowledge to either admit or deny the allegations of this paragraph and therefore they are denied.

5. Defendants are without sufficient knowledge to either admit or deny the allegations of this paragraph and therefore they are denied.

6. Defendants are without sufficient knowledge to either admit or deny the allegations of this paragraph and therefore they are denied.

7. WebBank admits that it is a Utah corporation. The remaining allegations of this paragraph contain conclusions of law to which no response is required and therefore they are denied.

8. Retail Capital denies it is a corporation, but admits that it is a New York limited liability company and that it is registered to do business in Michigan. The remaining allegations of this paragraph contain conclusions of law to which no response is required and therefore they are denied.

Jurisdiction

9. The allegations of this paragraph contain conclusions of law to which no response is required. To the extent a response is deemed required, Defendants do not contest the Court's jurisdiction.

10. The allegations of this paragraph contain conclusions of law to which no response is required. To the extent a response is deemed required, Defendants do not contest venue.

FACTUAL ALLEGATIONS

Calls from Capital Advance Solutions

11. Defendants deny they made any phone calls to Plaintiff. The remaining allegations of this paragraph contain conclusions of law to which no response is required and therefore they are denied.

12. Defendants deny they made any phone calls to Plaintiff. The remaining allegations of this paragraph contain conclusions of law to which no response is required and therefore they are denied.

13. Defendants deny they made any phone calls to Plaintiff. Defendants are without sufficient knowledge to either admit or deny the allegations of this paragraph as they relate to any other defendant and therefore they are denied.

14. Defendants deny they made any phone calls to Plaintiff. Defendants are without sufficient knowledge to either admit or deny the allegations of this paragraph as they relate to any other defendant and therefore they are denied.

Calls by the Defendants

15. Defendants deny they made any phone calls to Plaintiff. Defendants are without sufficient knowledge to either admit or deny the allegations of this paragraph as they relate to any other defendant and therefore they are denied.

16. Defendants deny they made any phone calls to Plaintiff. Defendants are without sufficient knowledge to either admit or deny the allegations of this paragraph as they relate to any other defendant and therefore they are denied.

17. Defendants admit only that Plaintiff applied for a loan through Capital Advance Solutions and that Retail Capital sent a letter to Plaintiff declining his application for an extension of credit. The remaining allegations of this paragraph contain conclusions of law to which no response is required and therefore they are denied.

18. Defendants are without sufficient knowledge to either admit or deny the allegations of this paragraph and therefore they are denied.

19. The allegations of this paragraph contain conclusions of law to which no response is required and therefore they are denied.

20. The allegations of this paragraph contain conclusions of law to which no response is required and therefore they are denied.

21. Denied.

22. The allegations of this paragraph contain conclusions of law to which no response is required and therefore they are denied.

VICARIOUS LIABILITY

23. The allegations of this paragraph contain conclusions of law to which no response is required and therefore they are denied.

24. The allegations of this paragraph contain conclusions of law to which no response is required and therefore they are denied.

25. The allegations of this paragraph contain conclusions of law to which no response is required and therefore they are denied.

26. The allegations of this paragraph contain conclusions of law to which no response is required and therefore they are denied.

27. The allegations of this paragraph contain conclusions of law to which no response is required and therefore they are denied.

28. The allegations of this paragraph contain conclusions of law to which no response is required and therefore they are denied.

Invasion of Privacy-Intrusion of Seclusion

29. The allegations of this paragraph contain conclusions of law to which no response is required and therefore they are denied.

30. The allegations of this paragraph contain conclusions of law to which no response is required and therefore they are denied.

31. The allegations of this paragraph contain conclusions of law to which no response is required and therefore they are denied.

CAUSES OF ACTION

COUNT I

Violations of the Telephone Consumer Protection Act (TCPA)

32. Defendants restate and incorporate by reference their answers and responses to paragraphs 1 through 31 as though set forth herein.

33. The allegations of this paragraph contain conclusions of law to which no response is required and therefore they are denied.

CAUSES OF ACTION

COUNT II

Violations of the Telephone Consumer Protection Act (TCPA)

34. Defendants restate and incorporate by reference their answers and responses to paragraphs 1 through 33 as though set forth herein.

35. The allegations of this paragraph contain conclusions of law to which no response is required and therefore they are denied.

CAUSES OF ACTION

COUNT III

Invasion of Privacy-Intrusion on Seclusion

36. Defendants restate and incorporate by reference their answers and responses to paragraphs 1 through 35 as though set forth herein.

37. The allegations of this paragraph contain conclusions of law to which no response is required and therefore they are denied.

PRAYER FOR DAMAGES AND RELIEFS

The allegations of this paragraph contain conclusions of law to which no response is required and therefore they are denied.

WHEREFORE, Defendants WebBank Corporation and Retail Capital, LLC dba Credibly demand that Plaintiff's Complaint be dismissed with prejudice and that they be awarded costs of this action, attorneys' fees and such other relief as this Honorable Court may deem appropriate.

AFFIRMATIVE DEFENSES

FIRST AFFIRMATIVE DEFENSE

Plaintiff has failed to state a claim upon which relief can be granted.

SECOND AFFIRMATIVE DEFENSE

Plaintiff suffered no actual damages as a result of Defendants' alleged conduct.

THIRD AFFIRMATIVE DEFENSE

If discovery reveals that any debt identified in Plaintiff's complaint is subject to an agreement requiring the parties to submit any dispute between them to arbitration, then there is no subject matter jurisdiction over Plaintiff's complaint.

FOURTH AFFIRMATIVE DEFENSE

In the event it is determined that any telephone call placed by Defendants required the prior express consent of the called party, Defendants had obtained such consent or acted under a good faith belief that such consent had been provided to it.

Respectfully Submitted,

Maurice Wutscher, LLP
Attorneys for WebBank Corporation and Retail
Capital, LLC dba Credibly

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Dated: February 20, 2018

CERTIFICATE OF SERVICE

I hereby certify that on February 20, 2018 a true and correct copy of the foregoing document was served via CM/ECF on all interested parties and by regular and certified mail, return receipt requested to:

Craig Cunningham
5543 Edmondson Pike, Suite 248
Nashville, TN 37211

/s/ Donald. S. Maurice, Esq.